

**[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

**§ 427. Family separation allowance**

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$100 if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—(1) Except as provided in paragraph (2) or (3), a member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A).

(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.

(3) The Secretary concerned may waive paragraph (1) in situations in which it would be in-

equitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders. Section 421 of this title does not apply to bar the entitlement to an allowance under this section. However, not more than one monthly allowance may be paid with respect to a married couple under this section.

(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF ALLOWANCE.—For the period beginning on October 1, 2003, and ending on December 31, 2004, the monthly allowance authorized by subsection (a)(1) shall be increased to \$250.

(Added Pub. L. 88-132, § 11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, § 1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91-533, § 1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, § 809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, § 607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, § 618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§ 611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, § 625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104-106, div. A, title VI, § 606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, § 607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105-85, div. A, title VI, § 603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795; Pub. L. 107-107, div. A, title VI, § 607(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 108-11, title I, § 1316(b), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108-136, div. A, title VI, §§ 606, 618(d)(2), Nov. 24, 2003, 117 Stat. 1500, 1504.)

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108-11, § 1316(b), (c), as amended by Pub. L. 108-136, § 618(d)(2), temporarily substituted “\$250” for “\$100”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (e). Pub. L. 108-136, § 606, added subsec. (e).

2001—Subsec. (c). Pub. L. 107-107 designated first sentence of existing provisions as par. (1) and substituted “Except as provided in paragraph (2) or (3), a member” for “A member”, added par. (2), and designated second sentence of existing provisions as par. (3) and substituted “The Secretary concerned may waive paragraph (1)” for “The Secretary concerned may waive the preceding sentence”.

1997—Subsec. (a). Pub. L. 105-85, § 603(c)(3)(B)(i), redesignated subsec. (b)(1), (2) as subsec. (a)(1), (2), respectively, and inserted subsec. heading.

Pub. L. 105-85, § 603(c)(3)(A), struck out heading and text of subsec. (a). Text read as follows: “In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

“(1) the movement of his dependents to his permanent station or a place near that station is not au-

thorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

“(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.”

Subsec. (a)(1). Pub. L. 105-85, §626, substituted “\$100” for “\$75” in introductory provisions.

Pub. L. 105-85, §603(c)(3)(B)(ii), struck out “, including subsection (a),” after “under this title” in introductory provisions, inserted “or” at end of subpar. (B), substituted “station.” for “station; or” at end of subpar. (C), and struck out subpar. (D) which read as follows: “the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.”

Subsec. (b). Pub. L. 105-85, §603(c)(3)(B)(iii), redesignated subsec. (b)(3) as subsec. (b), inserted heading, and substituted “subsection (a)” for “this subsection”. Former subsec. (b)(1), (2), and (4) redesignated subsecs. (a)(1), (2), and (c), respectively.

Subsec. (b)(5). Pub. L. 105-85, §603(c)(3)(B)(v), struck out par. (5) which read as follows: “Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.”

Subsec. (c). Pub. L. 105-85, §603(c)(3)(B)(iv), redesignated subsec. (b)(4) as subsec. (c), inserted heading, and substituted “subsection (a)(1)(A)” for “paragraph (1)(A) of this subsection”.

Subsec. (d). Pub. L. 105-85, §603(c)(3)(B)(v), added subsec. (d).

1996—Subsec. (b)(1)(D). Pub. L. 104-201, §607(a), added subpar. (D).

Subsec. (b)(4). Pub. L. 104-106 inserted “paragraph (1)(A) of” after “not entitled to an allowance under”.

Subsec. (b)(5). Pub. L. 104-201, §607(b), added par. (5). 1994—Subsec. (b)(2). Pub. L. 103-337, §625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103-337, §625(a)(1), struck out at beginning “A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.”

Subsec. (b)(3), (4). Pub. L. 103-337, §625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102-190, §625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102-190, §625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102-190, §625(a), substituted “\$75” for “\$60”.

Pub. L. 102-190, §611(b), substituted “In” for “Except in time of war or of national emergency hereafter declared by Congress, and in”.

Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1986—Subsec. (b). Pub. L. 99-661, §618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted “subparagraph (B) or (C) of paragraph (1)” for “clause (2) or (3)”, and added par. (3).

1985—Subsec. (b). Pub. L. 99-145 substituted “\$60” for “\$30”.

1980—Subsec. (b). Pub. L. 96-342 struck out “(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years’ or less service))” after “a member of a uniformed service with dependents”.

1970—Subsec. (b). Pub. L. 91-533 struck out “who is entitled to a basic allowance for quarters” after “(4 years’ or less service)”.

Pub. L. 91-529 inserted provisions authorizing payment of an allowance under this subsection even

though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Pub. L. 108-136, div. A, title VI, §618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that the amendment made by section 618(d)(2) is effective Apr. 16, 2003.

Amendment by Pub. L. 108-11 effective Oct. 1, 2002, and applicable with respect to months beginning on or after that date, and expires Sept. 30, 2003, and, effective Sept. 30, 2003, the dollar amount specified in subsec. (a)(1) of this section as in effect on the day before Apr. 16, 2003, is revived, see section 1316(c), (d) of Pub. L. 108-11, as amended, set out as notes under section 310 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, §607(b), Dec. 28, 2001, 115 Stat. 1135, provided that: “Paragraph (2) of section 427(c) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to pay periods beginning on or after January 1, 2002, for a member of the uniformed services covered by such paragraph regardless of the date on which the member first made the election to serve an unaccompanied tour of duty.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(c)(3) of Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 625(b) of Pub. L. 103-337 provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 607(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 809(b) of Pub. L. 96-342 provided that: “The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980.”

#### EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91-533 provided that: “The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970].”

Section 2 of Pub. L. 91-529 provided that: “Section 1 of this Act [amending this section] is effective October 1, 1963.”

#### EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

#### SAVINGS PROVISION

Section 618(b) of Pub. L. 99-661 provided that: “Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the

expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a)."

#### RATES OF PAY FOR FISCAL YEAR 2004

Rates of pay authorized under subsec. (a)(1) of this section from Oct. 1, 2003, through Sept. 30, 2004, to be \$250, see section 1104 of Pub. L. 108-106, set out as a note under section 310 of this title.

#### TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Section 302 of Pub. L. 102-25 provided that:

"(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be \$75 for each month during the period described in subsection (b).

"(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict."

#### FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: "That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to \$30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

"SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970]."

### § 428. Allowance for recruiting expenses

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92-129, title II, §205(a), Sept. 28, 1971, 85 Stat. 359.)

#### EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as a note under section 302a of this title.

#### PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

### § 429. Travel and transportation allowances: minor dependent schooling

Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in

kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.) for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.

(Added Pub. L. 95-561, title XIV, §1407(e)(1)(A), formerly §1407(c)(1)(A), Nov. 1, 1978, 92 Stat. 2367, renumbered §1407(d)(1)(A), Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559; renumbered §1407(e)(1)(A), Pub. L. 107-107, div. A, title III, §353(1), Dec. 28, 2001, 115 Stat. 1063; amended Pub. L. 99-145, title XIII, §1303(b)(10), Nov. 8, 1985, 99 Stat. 741.)

#### REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in text, is Pub. L. 95-561, title XIV, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

#### AMENDMENTS

1985—Pub. L. 99-145 inserted "(20 U.S.C. 921 et seq.)".

#### EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provision to be construed in impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95-561, set out as a note under section 921 of Title 20, Education.

#### TRANSFER OF FUNCTIONS

All functions of the Secretary of Defense and the Department of Defense under this section, with the exception of functions relating to operation of overseas institutions of higher education, were transferred to the Secretary of Education by section 3442(a) and (d) of Title 20, Education.

#### DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99-145, set out as a note under section 133 of Title 10, Armed Forces.

#### AUTHORITY UNDER THE DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AVAILABLE TO SECRETARY OF EDUCATION

The authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act, section 901 et seq. of Title 20, Education, made available to the Secretary of Education